

House Bill 1422

By: Representative Cox of the 102<sup>nd</sup>

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 11 of Title 40 of the Official Code of Georgia Annotated, relating to abandoned motor vehicles, so as to define relevant terms; to provide for possessory liens on vehicles and their contents; to provide for towing and storage of vehicles; to provide for notice of abandonment; to provide notice of redemption; to provide for duties of law enforcement officers; to enumerate appropriate towing and storage fees; to provide for the sale of abandoned vehicles; to provide for lien foreclosure; to provide for hearings in magistrate court; to provide for derelict motor vehicles; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 11 of Title 40 of the Official Code of Georgia Annotated, relating to abandoned motor vehicles, is amended by striking Article 1, relating to abandoned motor vehicles generally, and inserting in its place the following:

"ARTICLE 1

40-11-1.

As used in this article, the term:

(1) 'Abandoned motor vehicle' means a motor vehicle or trailer and its contents:

(A) Which has been left by the owner or some person acting for the owner with an automobile dealer, ~~repairman, or wrecker service~~ or any automobile repair facility for repair or for some other reason and has not been called for by such owner or other person within a period of 30 days after the time agreed upon; or within 30 days after such vehicle is turned over to such dealer, ~~repairman, or wrecker service~~ or automobile

repair facility when no time is agreed upon; or within 30 days after the completion of necessary repairs;

(B) ~~Which is left unattended on a public street, road, or highway or other public property for a period of at least five days and when it reasonably appears to a law enforcement officer that the individual who left such motor vehicle unattended does not intend to return and remove such motor vehicle. However, on the state highway system, any law enforcement officer may authorize the immediate removal of vehicles posing a threat to public health or safety or to mitigate congestion~~ has been left by the owner or some person acting for the owner with a towing and storage facility for a period of not less than 30 days without anyone having paid all reasonable current charges for such towing and storage;

(C) Which has been lawfully towed ~~onto the property of another~~ to an automotive storage facility at the request of a law enforcement officer and left there for a period of not less than 30 days without anyone having paid all reasonable current charges for such towing and storage; or

(D) Which has been lawfully towed ~~onto the property of another~~ from private property to an automotive storage facility at the request of a property owner ~~on whose property the vehicle was abandoned~~ or person acting for the property owner under the provisions set forth in Code Section 44-1-13 and left there for a period of not less than 30 days without anyone having paid all reasonable current charges for such towing and storage; or

(E) Which ~~has been left unattended on private property~~ was being stored by agreement for an insurance company providing insurance to cover damages to the vehicle and was left for a period of not less than 30 days past the agreed upon date.

(2) 'Derelict vehicle' means any motor vehicle that meets the criteria for determining a derelict motor vehicle as prescribed in Code Section 40-11-6.

~~(2)~~(3) 'Motor vehicle' or 'vehicle' means a motor vehicle or trailer and its contents.

~~(3)~~(4) 'Owner' or 'owners' means the registered owner, the owner as recorded on the title, lessor, lessee, security interest holders, and all lienholders as shown on the records of the Department of Revenue or the records from the vehicle's state of registration.

40-11-2.

(a) ~~Any person who removes a motor vehicle from public property at the request of a law enforcement officer or stores such vehicle shall, if the owner of the vehicle or some person acting for the owner is not present, seek the identity of and address of all known owners of such vehicle from the law enforcement officer requesting removal of such, from such~~

~~officer's agency, or from a local law enforcement agency for the jurisdiction in which the  
remover's or storer's place of business is located, within three business days of removal.  
The local law enforcement agency shall furnish such information to the person removing  
such vehicle within three business days after receipt of such request~~ or facility who legally  
tows, transports, or stores any motor vehicle shall have a possessory lien on the vehicle.  
The lien shall remain in effect while the motor vehicle is in the possession of the person  
or facility and is limited to reasonable towing and storage fees, plus notification,  
advertisement, or disposal costs where applicable. Such lien shall include vehicle contents  
with the following exceptions: prescription drugs or eyewear, child passenger restraining  
system, house keys, and personal documentation such as birth or death records. This lien  
attaches when the person or facility acts:

(1) Under a contract with the owner or someone representing the owner;

(2) At the direction of a law enforcement officer; or

(3) At the direction of an owner or lessor, or a person authorized by the owner or lessor,  
of private property on which such vehicle is wrongfully located, and the vehicle was  
removed in accordance with Code Section 44-1-13.

(b) Any person or facility who ~~removes~~ stores a motor vehicle that was removed from  
public or private property at the request of the property owner or stores such vehicle shall,  
~~if the owner of the vehicle or some person acting for the owner is not present, someone~~  
other than the vehicle owner or some person acting for the owner shall notify in writing a  
local law enforcement agency of the location of the vehicle, the manufacturer's vehicle  
identification number, license number, model, year, and make of the vehicle within three  
business days of the removal of such vehicle and shall seek from the local law enforcement  
agency the identity and address of all known owners of such vehicle, and any information  
indicating that such vehicle is a stolen motor vehicle. The local law enforcement agency  
shall furnish such information to the person ~~removing~~ or facility storing such vehicle within  
three business days after receipt of such request.

(c) If any motor vehicle removed under conditions set forth in subsection ~~(a)~~ or (b) of this  
Code section is determined to be a stolen motor vehicle, the local law enforcement officer  
or agency shall immediately notify the storage facility of such determination, and provide  
to such storage facility the names and addresses of all owners, if ascertainable, and shall  
further notify the Georgia Crime Information Center of the location of such motor vehicle  
within 72 hours after receiving notice that such motor vehicle is a stolen vehicle.

(d) When ~~If~~ any motor vehicle is removed under conditions set forth in subsection ~~(a)~~  
or (b) of this Code section is ~~determined not to be a stolen vehicle or is not a vehicle being~~  
~~repaired by a repair facility or is not being stored by an insurance company providing~~

1 ~~insurance to cover damages to the vehicle~~, the person ~~removing~~ or facility storing such  
2 motor vehicle shall, within seven ~~calendar~~ business days of the day such motor vehicle was  
3 removed or one business day after the information is furnished to the ~~remover~~ or storer  
4 pursuant to subsection ~~(a)~~ or (b) of this Code section, whichever is later, notify all owners,  
5 if known, by written acknowledgment signed thereby or by certified or registered mail or  
6 statutory overnight delivery, of the location of such motor vehicle, the fees connected with  
7 removal and storage of such motor vehicle, and the fact that such motor vehicle will be  
8 deemed abandoned under this chapter unless the owner, security interest holder, or  
9 lienholder redeems such motor vehicle within 30 days of the day such vehicle was  
10 removed. Further, such notification shall not be required if the vehicle is being repaired  
11 by a repair facility or being stored at the request of the vehicle owner or someone acting  
12 for the owner or an insurance company that is providing insurance to cover damages to the  
13 vehicle.

14 (e) If none of the owners redeems such motor vehicle as described in subsection (d) of this  
15 Code section, or if a vehicle being repaired by a repair facility or being stored at the request  
16 of the vehicle owner or someone acting for the owner or by an insurance company that is  
17 providing insurance to cover damages to the vehicle becomes abandoned, the person  
18 ~~removing~~ or facility storing such motor vehicle shall, within seven ~~calendar~~ business days  
19 of the day such vehicle became an abandoned motor vehicle, give notice in writing, by  
20 sworn statement, on the form prescribed by the commissioner, or via direct electronic  
21 access as provided by the Department of Revenue, to the Department of Revenue with a  
22 research fee as fixed by rule or regulation payable to the Department of Revenue, stating  
23 the manufacturer's vehicle identification number, the license number, the fact that such  
24 vehicle is an abandoned motor vehicle, the model, year, and make of the vehicle, the date  
25 the vehicle became an abandoned motor vehicle, the date the vehicle was removed, and the  
26 present location of such vehicle and requesting the name and address of all owners of such  
27 vehicle. If the form submitted is rejected because of inaccurate or missing information, the  
28 person ~~removing~~ or facility storing the vehicle shall resubmit, within seven ~~calendar~~  
29 business days of the date of the rejection, a corrected notice form together with an  
30 additional research fee as fixed by rule or regulation ~~payable to the Department of Revenue.~~  
31 Each subsequent corrected notice, if required, shall be submitted with an additional  
32 research fee as fixed by rule or regulation ~~payable to the Department of Revenue.~~ If a  
33 ~~person removing or storing the vehicle has knowledge of facts which reasonably indicate~~  
34 ~~that the vehicle is registered or titled in a certain other state, such person~~ If the vehicle  
35 displays registration from another state, then the person or facility storing such vehicle shall  
36 check the motor vehicle records of that other state in the attempt to ascertain the identity

1 of the owner of the vehicle. Research requests may be submitted and research fees made  
2 payable to the office of the tax commissioner and deposited in the general fund for the  
3 county in which the ~~remover's or storer's~~ place of business is located in lieu of the  
4 Department of Revenue, but in like manner, if such office processes motor vehicle records  
5 of the Department of Revenue.

6 (f) Upon ascertaining the owners of such motor vehicle, the person ~~removing~~ or facility  
7 storing such vehicle shall, within five ~~calendar~~ business days, by certified or registered mail  
8 or statutory overnight delivery, notify all known owners of the vehicle of the location of  
9 such vehicle and of the fact that such vehicle is deemed abandoned and shall be disposed  
10 of if not redeemed and make a demand for the payment of all applicable fees including  
11 repairs, towing, storage, and the costs of any advertisement and notification. Such written  
12 demand shall be on a form prescribed by the Department of Revenue. No such notice or  
13 written demand shall be required if, after a good faith effort, the identity of the owner  
14 cannot be ascertained.

15 (g) If the identity of the owners of such motor vehicle cannot be ascertained, the person  
16 ~~removing~~ or facility storing such vehicle shall place an advertisement in a newspaper of  
17 general circulation in the county where such vehicle was obtained or, if there is no  
18 newspaper in such county, shall post such advertisement at the county courthouse in such  
19 place where other public notices are posted. Such advertisement shall run in the newspaper  
20 once a week for two consecutive weeks or shall remain posted at the courthouse for two  
21 consecutive weeks. The advertisement shall contain a complete description of the motor  
22 vehicle, its license and manufacturer's vehicle identification numbers, the location from  
23 where such vehicle was initially removed, the present location of such vehicle, and the fact  
24 that such vehicle is deemed abandoned and shall be disposed of if not redeemed.

25 (h) The Department of Revenue shall provide to the Georgia Crime Information Center all  
26 relevant information from sworn statements described in subsection (e) of this Code section  
27 for a determination of whether the vehicles removed have been entered into the criminal  
28 justice information system as stolen vehicles. The results of the determination shall be  
29 provided electronically to the Department of Revenue and to the person or facility storing  
30 such vehicle.

31 (i) Any person or facility storing a vehicle under the provisions of this Code section shall  
32 notify the Department of Revenue if the vehicle is recovered, is claimed by the owner, is  
33 determined to be stolen, or for any reason is no longer an abandoned motor vehicle. Such  
34 notice shall be provided within seven ~~calendar~~ business days of such event.

35 (j) If vehicle information on the abandoned motor vehicle is not in the files of the  
36 Department of Revenue, the department may require such other information or

confirmation as it determines is necessary or appropriate to determine the identity of the vehicle.

(k) Any person or facility who does not provide the notice and information required by this Code section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as for a misdemeanor, ~~shall not be entitled to any storage fees~~, shall not be eligible to contract with or serve on a rotation list providing wrecker services for this state or any political subdivision thereof, and shall not be licensed by any municipal authority to provide removal of improperly parked cars under Code Section 44-1-13 for six months and until legal disposition of all abandoned vehicles in that person's or facility's possession.

(l) Any person or facility who knowingly provides false or misleading information when providing any notice or information as required by this Code section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as for a misdemeanor.

40-11-3.

(a) Any peace officer who finds a motor vehicle which has been left unattended on a public street, road, or highway or other public property for a period of at least ~~five~~ two days shall be authorized to cause such motor vehicle to be removed to ~~a garage or other place of safety~~, if such peace officer reasonably believes that the person who left such motor vehicle unattended does not intend to return and remove such motor vehicle an automotive storage facility.

(b) Any law enforcement officer who finds a motor vehicle which has been left unattended on the state highway system shall be authorized to cause such motor vehicle to be removed immediately to ~~a garage or other place of safety~~ an automotive storage facility when such motor vehicle poses a threat to public health or safety or to mitigate congestion. Any peace officer who finds a motor vehicle which has been left unattended on a public street, road, or highway or other public property, other than the state highway system, shall be authorized immediately to cause such motor vehicle to be removed immediately to ~~a garage or other place of safety~~ an automotive storage facility when such motor vehicle poses a threat to public health or safety or to mitigate congestion.

(c) Any peace officer who, under this Code section, causes any motor vehicle to be removed to ~~a garage or other place of safety~~ an automotive storage facility shall be liable for gross negligence only.

~~(d)(1) Any peace officer or the law enforcement agency which causes a motor vehicle to be removed to a garage or other place of safety or which is notified of the removal of a motor vehicle from private property shall within 72 hours from the time of removal or~~

~~notice and if the owner is unknown attempt to determine vehicle ownership through official inquiries to the Department of Revenue vehicle registration and vehicle title files. These inquiries shall be made from authorized criminal justice information system network terminals.~~

~~(2) If the name and address of the last known registered owner of the motor vehicle is obtained from the Georgia Crime Information Center, the peace officer who causes the motor vehicle to be removed shall, within three calendar days, make available to the person removing such motor vehicle the name and address of the last known registered owner of such motor vehicle, the owner of the motor vehicle as recorded on the title of such vehicle, and all security interest holders or lienholders. If such information is not available, the peace officer shall, within three calendar days, notify the person removing or storing such vehicle of such fact.~~

~~(3) Law enforcement agencies shall make record entries in Georgia criminal justice information system files through authorized criminal justice information system network terminals after an unsuccessful attempt to obtain vehicle ownership information and shall remove the record entries when ownership is determined.~~

(d) Any person or towing service that is instructed by a law enforcement officer or an official of the Department of Transportation to remove vehicles and cargo that pose a threat to public health or safety or to mitigate congestion shall be liable for gross negligence only.

40-11-3.1.

(a) It shall be the duty of any peace officer who discovers a motor vehicle which has been left unattended on a public street, road, or highway or other public property to immediately perform an unattended vehicle check on such motor vehicle, unless there is displayed on such motor vehicle an unattended vehicle check card indicating that another peace officer has already performed such an unattended vehicle check. For purposes of this Code section, an unattended vehicle check shall consist of such actions as are reasonably necessary to determine that the unattended vehicle does not contain an injured or incapacitated person and to determine that the unattended vehicle does not pose a threat to public health or safety.

(b) A peace officer completing an unattended vehicle check shall complete and attach to the vehicle an unattended vehicle check card. Unattended vehicle check cards shall be in such form, and shall be attached to vehicles in such manner, as may be specified by rule or regulation of the Department of Public Safety; and to the extent that sufficient funds are available to the department, the department may distribute such forms free of charge to law enforcement agencies in this state. Unattended vehicle check cards shall be serially

1 numbered; shall be of a distinctive color and shape, so as to be readily visible to passing  
2 motorists; and shall contain spaces for the investigating police officer to indicate the  
3 location of the vehicle, the date and time of the completion of the unattended vehicle check,  
4 and the name of such peace officer's law enforcement agency. A detachable stub, which  
5 shall be filed with the investigating peace officer's law enforcement agency, shall bear the  
6 same serial number and shall contain the same information, together with the identity of  
7 the investigating peace officer and the license plate number and other pertinent identifying  
8 information relating to the abandoned vehicle.

9 (c) Nothing in the Code section shall limit the otherwise applicable authority of a peace  
10 officer to have an unattended motor vehicle removed to ~~a garage or other place of safety~~  
11 an automotive storage facility.

12 (d) It shall be unlawful for any person other than a peace officer to attach a genuine or  
13 counterfeit unattended motor vehicle check card to a motor vehicle; and any person  
14 convicted of violating this subsection shall be guilty of a misdemeanor.

15 ~~40-11-3.2.~~

16 ~~(a) It shall be unlawful for the owner or operator of a paid private parking lot or paid~~  
17 ~~private parking facility located within 500 feet of an establishment which serves alcoholic~~  
18 ~~beverages for consumption on the premises to remove, tow, or immobilize or cause to be~~  
19 ~~removed, towed, or immobilized a motor vehicle left in such lot or facility between~~  
20 ~~midnight and noon of the following day. Nothing in this Code section shall prohibit the~~  
21 ~~owner of such a parking lot or facility from charging a penalty not to exceed \$25.00 in~~  
22 ~~excess of normal parking fees for vehicles which remain on the property during such period~~  
23 ~~without authorization. No owner or operator of such a parking lot or facility shall be liable~~  
24 ~~for any damages to any motor vehicle remaining on the property during such period without~~  
25 ~~authorization. Nothing in this Code section shall prohibit a resident or a business owner~~  
26 ~~from towing or removing or causing to be towed or removed a motor vehicle left on private~~  
27 ~~property. For purposes of this subsection, the terms 'paid private parking lot' and 'paid~~  
28 ~~private parking facility' mean private parking lots where the owner or operator of a motor~~  
29 ~~vehicle pays a valuable consideration for the right to park in such parking lot or parking~~  
30 ~~facility.~~

31 ~~(b) Any person violating the provisions of subsection (a) of this Code section shall be~~  
32 ~~guilty of a misdemeanor.~~

33 ~~40-11-4.~~



1 ~~(a) Any person who removes or stores any motor vehicle which is or becomes an~~  
2 ~~abandoned motor vehicle shall have a lien on such vehicle for the reasonable fees~~  
3 ~~connected with such removal or storage plus the cost of any notification or advertisement.~~  
4 ~~Such lien shall exist if the person moving or storing such vehicle is in compliance with~~  
5 ~~Code Section 40-11-2.~~

6 (b) The lien acquired under subsection (a) of ~~this Code section~~ Code Section 40-11-2 may  
7 be foreclosed in any court which is competent to hear civil cases, including, but not limited  
8 to, magistrate courts. Liens shall be foreclosed in magistrate courts only when the amount  
9 of the lien does not exceed the jurisdictional limits established by law for such courts.

10 40-11-5.

11 All liens acquired under ~~Code Section 40-11-4~~ subsection (a) of Code Section 40-11-2 shall  
12 be foreclosed as follows:

13 (1) Any proceeding to foreclose a lien on an abandoned motor vehicle must be instituted  
14 within one year from the time the lien is recorded or is asserted by retention;

15 (2) The person desiring to foreclose a lien on an abandoned motor vehicle shall, by  
16 certified or registered mail or statutory overnight delivery, make a demand upon the  
17 owners for the payment of the reasonable fees for removal and storage plus the costs of  
18 any notification or advertisement. Such written demand shall include an itemized  
19 statement of all charges and may be made concurrent with the notice required by  
20 subsection (f) of Code Section 40-11-2. Such demand shall be made on a form prescribed  
21 by rule or regulation of the Department of Revenue and shall notify the owner of his or  
22 her right to a judicial hearing to determine the validity of the lien. The demand shall  
23 further state that failure to return the written demand to the lien claimant, file with a court  
24 of competent jurisdiction a petition for a judicial hearing, and provide the lien claimant  
25 with a copy of such petition, all within ten days of delivery of the lien claimant's written  
26 demand, shall effect a waiver of the owner's right to such a hearing prior to sale. The  
27 form shall also provide the suspected owner with the option of disclaiming any ownership  
28 of the vehicle, and his or her affidavit to that effect shall control over anything contrary  
29 in the records of the Department of Revenue. No such written demand shall be required  
30 if the identity of the owner cannot be ascertained and the notice requirements of  
31 subsection (g) of Code Section 40-11-2 have been complied with;

32 (3)(A) If, within ten days of delivery to the appropriate address of the written demand  
33 required by paragraph (2) of this Code section, the owner of the abandoned motor  
34 vehicle fails to pay or file with the court a petition for a judicial hearing with a copy to  
35 the lien claimant in accordance with the notice provided pursuant to paragraph (2) of

1 this Code section, or if the owner of the abandoned motor vehicle cannot be  
2 ascertained, the person ~~removing~~ or facility storing the abandoned motor vehicle may  
3 foreclose such lien. The person or facility asserting such lien may move to foreclose  
4 by making an affidavit to a court of competent jurisdiction, on a form prescribed by rule  
5 or regulation of the Department of Revenue, showing all facts necessary to constitute  
6 such lien and the amount claimed to be due. Such affidavit shall aver that the notice  
7 requirements of Code Section 40-11-2 have been complied with, and such affidavit  
8 shall also aver that a demand for payment in accordance with paragraph (2) of this Code  
9 section has been made without satisfaction or without a timely filing of a petition for  
10 a judicial hearing or that the identity of the owner cannot be ascertained. The person  
11 or facility foreclosing shall verify the statement by oath or affirmation and shall affix  
12 his or her signature thereto.

13 (B) Regardless of the court in which the affidavit required by this paragraph is filed,  
14 the fee for filing such affidavit shall be \$10.00 per motor vehicle upon which a lien is  
15 asserted;

16 (4) If no timely petition for a hearing has been filed with a court of competent  
17 jurisdiction, then, upon such affidavit's being filed by the lien claimant pursuant to  
18 paragraph (3) of this Code section, the lien will conclusively be deemed a valid one and  
19 foreclosure thereof allowed;

20 (5) If a petition for a hearing is filed with a court of competent jurisdiction within ten  
21 days after delivery of the lien claimant's demand, a copy of which demand shall be  
22 attached to the petition, the court shall set such a hearing within ten days of filing of the  
23 petition;

24 (6) Upon the filing of such petition by an owner, neither the lien claimant nor the court  
25 may sell the motor vehicle, although possession of the motor vehicle may be retained by  
26 the lien claimant or obtained by the court in accordance with the order of the court which  
27 sets the date for the hearing;

28 (7) If, after a full hearing, the court finds that a valid debt exists, then the court shall  
29 authorize foreclosure upon and sale of the motor vehicle subject to the lien to satisfy the  
30 debt if such debt is not otherwise immediately paid;

31 (8) If the court finds the actions of the person or facility asserting the lien in retaining  
32 possession of the motor vehicle were not taken in good faith, then the court, in its  
33 discretion, may award damages to the owner, any party which has been deprived of the  
34 rightful use of the vehicle, or the lessee due to the deprivation of the use of the motor  
35 vehicle; and

(9) If an affidavit meeting the requirements of paragraph (3) of this Code section is filed and no petition for a hearing is timely filed, or if, after a full hearing, the court determines that a valid debt exists, the court shall issue an order authorizing the sale of such motor vehicle. However, the holder of a security interest in or a lien on the vehicle, other than the holder of a lien created by ~~Code Section 40-11-4~~ subsection (a) of Code Section 40-11-2, shall have the right, in the order of priority of such security interest or lien, to pay the debt and court costs. If the holder of a security interest or lien does so pay the debt and court costs, he or she shall have the right to possession of the vehicle, and his or her security interest in or lien on such vehicle shall be increased by the amount so paid. A court order shall be issued to this effect, and in this instance there shall not be a sale of the vehicle.

40-11-6.

~~(a) Upon order of the court, the person holding the lien on the abandoned motor vehicle shall be authorized to sell such motor vehicle at public sale, as defined by Code Section 11-1-201.~~

~~(b)~~ After satisfaction of the lien, the person or facility selling such motor vehicle shall, not later than 30 days after the date of such sale, provide the clerk of the court with a copy of the bill of sale as provided to the purchaser and turn the remaining proceeds of such sale, if any, over to the clerk of the court. Any person or facility who fails to comply with the requirements of this ~~subsection~~ Code section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as for a misdemeanor.

40-11-7.

The purchaser at a sale as authorized in this article shall receive a certified copy of the court order authorizing such sale. Any such purchaser may obtain a certificate of title to such motor vehicle by filing the required application, paying the required fees, and filing a certified copy of the order of the court with the Department of Revenue. The Department of Revenue shall then issue a certificate of title, which shall be free and clear of all liens and encumbrances.

40-11-8.

The clerk of the court shall retain the remaining balance of the proceeds of a sale under Code Section 40-11-6, after satisfaction of liens, security interests, and debts, for a period of 12 months; and, if no claim has been filed against such proceeds by the owner of the abandoned motor vehicle or any interested party, then he or she shall ~~pay such remaining~~

1 ~~balance~~ return 75 percent of the proceeds to the repair facility or towing and storage facility  
2 that initiated the foreclosure and the remaining 25 percent shall be disbursed as follows:

3 (1) If the abandoned motor vehicle came into the possession of the person or facility  
4 creating the lien other than at the request of a peace officer, the remaining 25 percent of  
5 the proceeds of the sale shall be divided equally and paid into the general fund of the  
6 county in which the sale was made and into the general fund of the municipality, if any,  
7 in which the sale was made;

8 (2) If the abandoned motor vehicle came into the possession of the person or facility  
9 creating the lien at the request of a police officer of a municipality, the remaining 25  
10 percent of the proceeds of the sale shall be paid into the general fund of the municipality;

11 (3) If the abandoned motor vehicle came into the possession of the person or facility  
12 creating the lien at the request of a county sheriff, deputy sheriff, or county police officer;  
13 or at the request of a member of the Georgia State Patrol or other employee of the State  
14 of Georgia, the remaining 25 percent of the proceeds of the sale shall be paid into the  
15 general fund of the county in which the sale was made;

16 ~~(4) If the abandoned motor vehicle came into the possession of the person creating the~~  
17 ~~lien at the request of a member of the Georgia State Patrol or other employee of the State~~  
18 ~~of Georgia, the proceeds of the sale shall be paid into the general fund of the county in~~  
19 ~~which the sale was made.~~

20 40-11-9.

21 (a) If a motor vehicle has been left unattended on private property for not less than two  
22 days or on public property for not less than three days without the owner or driver making  
23 any attempt to recover such vehicle or to leave a conspicuously placed note that such owner  
24 or driver intends to return for such vehicle; or, if a conspicuous note was left, if the motor  
25 vehicle has been left unattended for not less than five days and if because of damage,  
26 vandalism, theft, or fire the vehicle is damaged to the extent that its restoration to an  
27 operable condition would require the replacement of one or more major component parts  
28 or involves any structural damage that would affect the safety of the vehicle; or if there is  
29 evidence that the vehicle was inoperable due to major mechanical breakdown at the time  
30 it was left on the property, such as the engine, transmission, or wheels missing, no coolant  
31 in the cooling system, no oil in the engine, or burned fluid in the transmission; or if the  
32 vehicle is seven or more years old; or if the vehicle is not currently tagged or is not  
33 verifiable by the state as to who is the current owner or lienholder of the vehicle; or if the  
34 vehicle has been abandoned to a wrecker service by an insurance company and the owner  
35 following the insurance company's making a total loss payment, then any person removing

1 such vehicle shall within ~~72 hours~~ three business days of removing such vehicle obtain the  
2 identity of and address of the last known registered owner of the vehicle, the owner of the  
3 vehicle as recorded on the certificate of title of such vehicle, and any security interest  
4 holder or lienholder on such vehicle from the local law enforcement agency of the  
5 jurisdiction in which the vehicle was located. If the law enforcement agency shows no  
6 information on the vehicle, then a request for such information shall be sent to the  
7 Department of Revenue. Within ~~72 hours~~ three business days after obtaining such  
8 information, the person removing such vehicle shall, by certified mail or statutory overnight  
9 delivery, return receipt requested, notify the registered owner, title owner, and security  
10 interest holder or lienholder of the vehicle that such vehicle will be declared a derelict  
11 vehicle and the title to such vehicle will be canceled by the Department of Revenue if such  
12 person or persons fail to respond within ten days of receipt of such notice. The state  
13 revenue commissioner shall prescribe the form and content of such notice. If the registered  
14 owner, title owner, or security interest holder or lienholder fails to respond within 30 days  
15 from the date of such notice by certified mail or statutory overnight delivery, and if the  
16 vehicle is appraised as having a total value of less than \$300.00, the vehicle shall be  
17 considered to be a derelict vehicle. The value of the vehicle shall be determined as 50  
18 percent of the wholesale value of a similar car in the rough section of the *National Auto*  
19 *Research Black Book, Georgia Edition*, or if a similar vehicle is not listed in such book or,  
20 regardless of the model year or book value of the vehicle, if the vehicle is completely  
21 destroyed by fire, flood, or vandalism or is otherwise damaged to the extent that restoration  
22 of the vehicle to a safe operable condition would require replacement of more than 50  
23 percent of its major component parts, the person shall obtain an appraisal of the motor  
24 vehicle from the local law enforcement agency's auto theft section with jurisdiction in the  
25 county or municipality where such vehicle is located. Any person removing a vehicle shall  
26 complete a form, to be provided by the Department of Revenue, indicating that the vehicle  
27 meets at least four of the above-stated eight conditions for being a derelict vehicle and shall  
28 file such form with the Department of Revenue and the law enforcement agency with  
29 jurisdiction from which such vehicle was removed.

30 (b) Upon determination that a vehicle is a derelict motor vehicle as provided in  
31 subsection (a) of this Code section, it may be disposed of by sale to a person who scraps,  
32 dismantles, or demolishes motor vehicles, provided that such vehicle may be sold for scrap  
33 or parts only and shall in no event be rebuilt or sold to the general public. Any person  
34 disposing of a derelict motor vehicle shall, prior to disposing of such vehicle, photograph  
35 such vehicle and retain with such photograph the appraisal required in subsection (a) of this  
36 Code section and the notice to the Department of Revenue required in this subsection for

1 a period of three years after its disposition. Such person shall also notify the Department  
2 of Revenue of the disposition of such vehicle in such manner as may be prescribed by the  
3 state revenue commissioner. The Department of Revenue shall cancel the certificate of title  
4 for such vehicle and shall not issue a rebuilt or salvage title for such vehicle.

5 (c) For purposes of this Code section, the term 'derelict vehicle' shall not include a vehicle  
6 which does not bear a manufacturer's vehicle identification number plate or a vehicle  
7 identification number plate assigned by a state jurisdiction.

8 (d) Any person who abandons a derelict motor vehicle on public or private property shall  
9 be guilty of a misdemeanor and upon conviction shall be fined not more than \$500.00 and  
10 shall pay all costs of having such derelict motor vehicle removed, stored, and sold as  
11 provided for in this Code section. Notwithstanding any other provision of law to the  
12 contrary, such fines shall be disposed as follows:

13 (1) If the ~~abandoned~~ derelict motor vehicle was removed other than at the request of a  
14 peace officer, the moneys arising from the fine shall be divided equally and paid into the  
15 general fund of the county in which the offense was committed and into the general fund  
16 of the municipality, if any, in which the offense was committed;

17 (2) If the ~~abandoned~~ derelict motor vehicle was removed at the request of a police officer  
18 of a municipality, the moneys arising from the fine shall be paid into the general fund of  
19 the municipality;

20 (3) If the ~~abandoned~~ derelict motor vehicle was removed at the request of a county  
21 sheriff, deputy sheriff, or county police officer, the moneys arising from the fine shall be  
22 paid into the general fund of the county in which the offense was committed; and

23 (4) If the ~~abandoned~~ derelict motor vehicle was removed at the request of a member of  
24 the Georgia State Patrol or other employee of the State of Georgia, the moneys arising  
25 from the fine shall be paid into the general fund of the county in which the offense was  
26 committed.

27 (e) Any person removing a derelict motor vehicle who fails to comply with the  
28 requirements of this Code section or who knowingly provides false or misleading  
29 information when providing any notice or information required by this Code section shall  
30 be guilty of a misdemeanor.

31 (f) Neither the State of Georgia nor any state agency nor the person removing, storing, and  
32 processing the vehicle unless recklessly or grossly negligent shall be liable to the owner of  
33 a vehicle declared to be a derelict motor vehicle pursuant to this Code section or an  
34 abandoned motor vehicle."

## 35 SECTION 2.

- 1 All laws and parts of laws in conflict with this Act are repealed.